IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION O.4699 OF 2005

Thengil Sainath Shrikant & Ors. ...Applicants
vs.
State of Maharashtra ...Respondent

Mr.P.R.Arjunwadkar for the Applicant
Ms S.D.Shinde, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : AUGUST 8,2005

P.C.:

1. Heard learned Advocate for the Applicants and the learned A.P.P. for State. The Applicants are charged with commission of offence punishable under Sections 143, 147, 148, 149, 307, 326, 452, 337, 338, 323, 504, 506 of Indian Penal Code, Section 135 of Bombay Police Act and Section 4(25) of Arms Act.

2. On 4th June 2005 the Applicants were arrested. An application for bail made by the Applicants has been rejected. One of the grounds for rejecting the application is that investigation was not completed and the weapons are yet to be recovered.

3. The learned Advocate for the Applicants submitted that one of the co-accused Navnath Salunke filed the F.I.R. on 4th June 2005 at 4.00 p.m. at Vijapur Naka police station. F.I.R. in the present case has also been filed on 4th June

2005 at the same police station at 10.30 a.m. In the F.I.R. filed by the co-accused Navnath alleged injured persons in the present offence viz. Amar Mane and Chandrakant Metkari are the accused persons along with others against whom the allegation is of commission of offence under Sections 143, 147,148,149, 337, 336, 324, 323, 504, 506, 509 of I.P.C. Section 135 of Bombay Police Act. He submitted that there is absolutely no material against the Applicants. The learned A.P.P. submitted that investigation is still in progress and charge sheet is not yet filed. Learned A.P.P. invited my attention to the relevant material on record.

4. The F.I.R. does not disclose that the Applicant No.1 was carrying any weapon. The allegation against the Applicant No.2 is that he was carrying an iron rod. The main allegation of assault in the F.I.R. is against the co-accused Shivaji Kokare who has allegedly assaulted Amar Mane by a chopper. The allegation against the Applicant No.2 is that by an iron rod he assaulted Mahesh, Chandrakant and Amar Mane. Learned A.P.P. fairly pointed out that there is nothing on record to show that Mahesh and Chandrakant sustained any serious injury. The learned A.P.P. has pointed out that the certificate showing the nature of injuries on the person of Amar Mane. The certificate shows that the said Amar Mane has sustained three simple injuries and the said injuries have been allegedly caused by a sharp weapon. It is doubtful whether

such injuries could hve eben caused by use of an iron rod. Mahesh has sustained only three abrasions which are of simple nature and Chandrakant has sustained four simple injuries in the nature of contusion and abrasions.

5. It seems that the incident is the outcome of rivalry between the two groups. There are cross complaints filed against each other. There is no allegation against the Applicant No.1 regarding use of any weapon. Even assuming that the Applicant No.2 has assaulted by using iron rod, the injuries sustained by the injured are of simple nature. Considering these factors even though investigation is not fully completed, the Applicants are entitled to be enlarged on bail.

6. Hence I pass the following order :

i) The Applicants shall be enlarged on bail in connection with C.R.No.143 of 2005 registered with Vijapur Naka Police Station, District Solapur subject to furnishing a personal bond of Rs.10,000/- (Rupees ten thousand only) each with one or two sureties in the like amount.

ii) The bail is granted subject to the condition that the Applicants will attend the concerned Police Station as and when called upon to do till the charge sheet is filed.

iii) The Bail is granted subject to condition that the

Applicants shall not, directly or indirectly, make any inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE